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STATUTORY INSTRUMENTS

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**2002 No. 1144**

**The Personal Protective Equipment Regulations 2002**

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Personal Protective Equipment Regulations 2002 and shall come into force on 15th May 2002.

(2) The Regulations specified in Schedule 11 are hereby revoked with effect from the coming into force of these Regulations.

**Interpretation**

2.—(1) In these Regulations—

- (a) the “PPE Directive” means Council Directive [89/686/EEC](#) on the approximation of the laws of the Member States relating to personal protective equipment<sup>(1)</sup>;
- (b) except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a Member State includes a reference to an EEA State: for this purpose—
  - (i) the “EEA” means the European Economic Area;
  - (ii) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
  - (iii) the “EEA Agreement” means the Agreement of the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(2)</sup>; and
- (c) a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations and a reference—
  - (i) to a paragraph in a regulation is a reference to a paragraph in that regulation;
  - (ii) to an Annex is a reference to an Annex to the PPE Directive: for the purposes of these Regulations, Annexes I, II, III, IV and VI are respectively set out in Schedules 1, 2, 3, 4 and 5;
  - (iii) to an Article in these Regulations is a reference to the Article so numbered in the PPE Directive and a reference to a section or paragraph of an Article shall be construed accordingly: for the purposes of these Regulations, Articles 10, 11, 12 and 13 are respectively set out in Schedules 7, 8, 9 and 6;
  - (iv) to a section or a paragraph in an Annex is a reference to a section or a paragraph in that Annex as set out in the relevant Schedule; and
  - (v) to “the Directive” in an Annex or Article is a reference to the PPE Directive.

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(1) O.J. No. L399, 30.12.89, p. 18, as amended by Directive [93/68/EEC](#) (O.J. No. L220, 30.8.93, p. 1), Directive [93/95/EEC](#) (O.J. No. L276, 9.11.93, p. 11) and Directive [96/58/EC](#) (O.J. No. L236, 18.9.96, p. 44).

(2) The PPE Directive was added to Chapter XXII of Annex II to the EEA Agreement by item P in Annex 3 to Decision No. 7/94 of the EEA Joint Committee of 21 March 1994 (O.J. No. L160, 28.6.94, p. 1).

## (2) In these Regulations—

“1987 Act” means the Consumer Protection Act 1987<sup>(3)</sup>;

“approved body” shall be construed in accordance with regulation 13;

“basic health and safety requirements” means the requirements set out in Schedule 2;

“CE marking” means the CE marking referred to in regulation 12 consisting of the initials “CE” in the form shown in Schedule 4;

“the Commission” means the Commission of the European Communities;

“complex PPE” means PPE of complex design intended to protect against mortal danger or against dangers that may seriously and irreversibly harm health, the immediate effects of which the designer assumes the user cannot identify in sufficient time: this category shall cover exclusively—

- (a) filtering respiratory devices for protection against solid and liquid aerosols or irritant, dangerous, toxic or radiotoxic gases;
- (b) respiratory protection devices providing full insulation from the atmosphere, including those for use in diving;
- (c) PPE providing only limited protection against chemical attack or against ionising radiation;
- (d) emergency equipment for use in high-temperature environments the effects of which are comparable to those of an air temperature of 100°C or more which may or may not be characterised by the presence of infra-red radiation, flames or the projection of large amounts of molten materials;
- (e) emergency equipment for use in low temperature environments the effects of which are comparable to those of an air temperature of –50°C or less;
- (f) PPE to protect against falls from a height; and
- (g) PPE to protect against electrical risks and dangerous voltages or that used as insulation in high-tension work;

“enforcement authority” shall be construed in accordance with Schedule 10;

“harmonised standard” means a text containing a technical specification or specifications adopted by either or both of the European Committee for Standardisation and the European Committee for Electrotechnical Standardisation upon a remit from the Commission in accordance with Council Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services<sup>(4)</sup>;

“PPE” means—

- (a) any device or appliance designed to be worn or held by an individual for protection against one or more health and safety hazards: and shall also include—
  - (i) a unit constituted by several devices or appliances which have been integrally combined by the manufacturer for the protection of an individual against one or more potentially simultaneous risks;
  - (ii) a protective device or appliance combined, separably or inseparably, with personal non-protective equipment worn or held by an individual for the execution of a specific activity; and

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(3) 1987 c. 43.

(4) O.J. No. L204, 22.6.98 p. 37 as amended by Council Directive 98/48/EC (O.J. No. L217, 20.7.98, p. 18).

- (iii) interchangeable components which are essential to its satisfactory functioning and used exclusively for such equipment;

“responsible person” means—

- (a) the manufacturer or his authorised representative established within the Community; or
- (b) where neither the manufacturer nor his authorised representative is established within the Community, the person who places the PPE on the market;

“safe” in relation to PPE, means that the PPE when used and maintained in accordance with its intended purpose could not compromise the health and safety of the user without prejudice to the health and safety of other individuals, domestic animals or property, and when the context admits, cognate expressions shall be construed accordingly;

“simple PPE” means PPE models of simple design where the designer assumes that the user can himself assess the level of protection provided against the minimal risks concerned the effects of which, when they are gradual, can be safely identified by the user in good time: this category shall cover exclusively PPE intended to protect the wearer against—

- (a) mechanical action whose effects are superficial (for example gardening gloves and thimbles);
- (b) cleaning materials of weak action and easily reversible effects (for example gloves affording protection against diluted detergent solutions);
- (c) risks encountered in the handling of hot components which do not expose the user to a temperature exceeding 50°C or to dangerous impacts (for example gloves and aprons for professional use);
- (d) atmospheric agents of a neither exceptional nor extreme nature (for example head gear, seasonal clothing and footwear);
- (e) minor impacts and vibrations which do not affect vital areas of the body and whose effects cannot cause irreversible lesions (for example light anti-scalping helmets, gloves and light footwear); and
- (f) sunlight (for example sunglasses);

“supply” is to be read in accordance with section 46 of the 1987 Act and includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and cognate expressions shall be construed accordingly, provided always that PPE shall be regarded as having been supplied where a person—

- (a) being a manufacturer of PPE for his own use; or
- (b) having imported PPE from a country or territory outside the Community for his own use, brings that PPE into service in the course of a business;

“transposed harmonised standard” means a standard, the reference number of which is published—

- (a) in the United Kingdom, by the Secretary of State, in such a manner as she considers appropriate; or
- (b) in another Member State of the Community,

and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities.

## **Application**

3.—(1) Subject to paragraph (2) and regulations 4, 5, 6 and 7, these Regulations shall apply to PPE.

(2) These Regulations shall not apply to PPE which is presented at any trade fair, exhibition, demonstration or the like and which is not in conformity with the provisions of the PPE Directive, provided that a visible sign clearly indicates that the PPE in question does not comply with those provisions and it may not be acquired or used until it has been made to comply with them by the responsible person.

4. Any system placed on the market in conjunction with PPE for its connection to another external, additional device shall be regarded as an integral part of that PPE even if the system is not intended to be worn or held permanently by the user for the entire period of risk exposure.

#### **Excluded PPE**

5. These Regulations shall not apply to PPE which is—

- (1) of one of the classes specified in the list of excluded products in Schedule 1; or
- (2) within the scope of any directive designed to achieve the same objectives as the PPE Directive with regard to placing on the market, free movement of goods and safety of PPE.

#### **PPE placed on the market before 1 July 1992**

6. These Regulations do not apply to any PPE which was placed on the market before 1 July 1992.

#### **Transitional Exclusion**

7.—(1) These Regulations do not apply to any PPE which was placed on the market on or before 30 June 1995 and which complies with any safety provisions with which it would have been required to comply for it to be placed on the market in the United Kingdom on 30 June 1992.

- (2) The exclusion provided in paragraph (1) does not apply in the case of any PPE which—
  - (a) unless required to bear the CE marking pursuant to any other Community obligation, bears the CE marking or an inscription liable to be confused therewith; or
  - (b) bears or is accompanied by any other indication, howsoever expressed, that it complies with the PPE Directive.

#### **General duty of placing on the market of PPE**

8.—(1) Subject to regulation 9, no person who is a responsible person shall place on the market any PPE unless the requirements of paragraph (2) have been complied with in relation thereto.

- (2) The requirements of this paragraph are that—
  - (a) it satisfies the basic health and safety requirements which are applicable to that class or type of PPE and, for the purpose of satisfying those requirements where a transposed harmonised standard covers one or more of the basic health and safety requirements, PPE which conforms to that standard shall be presumed to comply with that or, as the case may be, those basic health and safety requirements;
  - (b) the appropriate conformity assessment procedure, in accordance with regulation 11, has been carried out—
    - (i) by the manufacturer; or
    - (ii) where permitted by procedure, by the manufacturer's authorised representative established in the Community,

save that where the person placing the PPE on the market is neither the manufacturer nor his authorised representative established in the Community the obligation to retain

the technical documentation required by the appropriate conformity assessment procedure shall be fulfilled by the person who places that PPE on the market;

- (c) the CE marking has been affixed to it by the manufacturer or his authorised representative in accordance with regulation 12 and Schedule 4 hereto to indicate that it conforms with all the provisions of the PPE Directive that apply to it including the appropriate conformity assessment procedure and regulation 12 and Schedule 4 shall have effect for that purpose; and
- (d) when properly maintained and used for its intended purpose it does not compromise the safety of individuals, domestic animals or property.

### **General duty relating to the supply of PPE**

9. Subject to regulation 10, no person shall supply any PPE unless that PPE is safe.

### **Exceptions to placing on the market and supply in respect of certain PPE**

10. For the purposes of regulations 8 and 9, PPE shall not be regarded as being placed on the market or supplied, as the case may be—

- (a) where that PPE—
  - (i) will be brought into service in a country outside the Community; or
  - (ii) is imported into the Community for re-export to a country outside the Community, save that this paragraph shall not apply if the CE marking, or any inscription liable to be confused therewith, is affixed thereto.

### **Conformity assessment procedures**

11. For the purposes of regulation 8(2)(b), the appropriate conformity assessment procedure in all cases shall be the assembly of such technical documentation as required under Schedule 3 and in addition in the case of—

- (a) simple PPE, the EC declaration of conformity procedure described in Schedule 9;
- (b) the series production of complex PPE, the EC declaration of conformity procedure described in Schedule 9, the EC type-examination procedure described in Schedule 7 and one of the two checking of PPE manufactured procedures described in Schedule 8; and
- (c) the series production of PPE other than simple PPE or complex PPE, the EC declaration of conformity procedure described in Schedule 9 and EC type-examination procedure described in Schedule 7.

### **CE marking**

12.—(1) Subject to the following paragraphs of this regulation, PPE which either meets the basic health and safety requirements or is presumed to do so in accordance with regulation 8(2)(a) shall bear the CE marking in a visible, legible and indelible form.

(2) Where the manufacturer or his authorised representative established within the Community is required to affix the CE marking to PPE it shall be affixed in accordance with Schedules 4 and 6.

(3) Subject to paragraph (4), where any PPE is subject to any other directive or directives in addition to the PPE Directive which also provides for the affixing of the CE marking, the CE marking shall indicate that the PPE also fulfils the provisions of that other directive or directives.

(4) Where one or more of the other directives referred to in paragraph (3) allow the manufacturer, during a transitional period, to choose which arrangements apply, the CE marking shall indicate

conformity to the provisions only of the directive or directives applied by the manufacturer; and, in this case, the particulars of the directive or directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the directive or directives and accompanying the PPE in question.

### **Approved bodies**

**13.** For the purposes of these Regulations, an approved body is a body which has been—

- (a) appointed as a United Kingdom approved body pursuant to regulation 14; or
- (b) appointed by a Member State other than the United Kingdom;

to carry out one or more of the conformity assessment procedures specified in regulation 11 and which has been notified by the United Kingdom or by such other Member State, as the case may be, to the Commission and the other Member States pursuant to Article 9(1) of the PPE Directive.

### **Appointment of approved bodies**

**14.—**(1) The Secretary of State may from time to time appoint such persons as she thinks fit to be approved bodies for the purposes of these Regulations.

(2) Such appointment—

- (a) may relate to all descriptions of product or such descriptions (which may be framed by reference to any circumstances whatsoever) of product as the Secretary of State may from time to time determine;
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, which may include conditions which are to apply upon or following termination of the appointment;
- (c) shall without prejudice to the generality of sub-paragraph (b) and subject to paragraph (4), require that body to carry out the procedures and specific tasks for which it has been appointed including (where so provided as part of those procedures) surveillance to ensure that the manufacturer duly fulfils the obligations arising out of the relevant conformity assessment procedure;
- (d) shall be terminated upon 6 months notice in writing to the Secretary of State, at the request of the approved body; and
- (e) may be terminated at any time by the Secretary of State if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.

(3) Subject to paragraphs (2)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.

(4) An approved body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) if—

- (a) the documents subject to it in relation to carrying out such functions are not in English or another language acceptable to that body;
- (b) the person making the application has not submitted with its application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 15; or
- (c) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to commence the required work within 3 months of receiving the application.

(5) If for any reason the appointment of an approved body is terminated under this regulation, the Secretary of State may—

- (a) give such directions (either to the body the subject of the termination or another approved body) for the purposes of making such arrangements for the determination of outstanding applications as she considers appropriate; and
- (b) without prejudice to the generality of the foregoing, authorise another approved body to take over its functions in respect of such cases as she may specify.

(6) If an approved body, to whom an application has been made for an EC type-examination certificate pursuant to the EC type-examination procedure (set out in Schedule 7 hereto), is not satisfied that the requirements for such a certificate are met and refuses to issue an EC type-examination certificate it shall inform all other approved bodies of this.

(7) If an approved body withdraws an EC type-examination certificate it shall inform the Secretary of State.

### **Fees**

**15.**—(1) Without prejudice to the power of the Secretary of State, where he is appointed as an approved body in the United Kingdom, to charge fees pursuant to regulations made under section 56 of the Finance Act 1973<sup>(5)</sup> and subject to paragraph (2), an approved body appointed by the Secretary of State may charge such fees in connection with, or incidental to, carrying out the tasks referred to in regulation 14(2)(c) as it may determine; provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the approved body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

### **Application of Schedule 10 on Enforcement**

**16.**—(1) Subject to paragraph (2), Schedule 10 shall have effect for the purposes of providing for enforcement of these Regulations, and for matters incidental thereto.

(2) Except in the case of PPE which when used in accordance with its intended purpose, in the opinion of an enforcement authority, may endanger the safety of persons and, where appropriate, domestic animals or property, where an enforcement authority has reasonable grounds for suspecting that the CE marking has been affixed to the PPE, or its packaging, and in relation to which any provision of these Regulations has not been complied with, it may serve notice in writing on the responsible person and, subject to paragraph (3), no other action pursuant to Schedule 10 may be taken, and no proceedings may be brought pursuant to regulation 17, in respect of that PPE until such notice has been given and the person to whom it is given has failed to comply with its requirements.

(3) Notwithstanding the provisions of paragraph (2), for the purposes of ascertaining whether or not the CE marking has been correctly affixed, action may be taken pursuant to section 29 of the 1987 Act, as it is applied by Schedule 10.

(4) A notice which is given under paragraph (2) shall—

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(5) 1973 c. 51.

- (a) state that the enforcement authority suspects that the CE marking has not been correctly affixed to the PPE or its packaging;
- (b) specify the respect in which it is so suspected and give particulars thereof;
- (c) require the person to whom the notice is given—
  - (i) to secure that any PPE to which the notice relates conforms as regards the provisions concerning the correct affixation of the CE marking within such period as may be specified in the notice; or
  - (ii) to provide evidence within that period, to the satisfaction of an enforcement authority, that the CE marking has been correctly affixed; and
- (d) warn that person that if the non-conformity continues after, or if satisfactory evidence has not been provided within, the period specified in the notice, further action may be taken under these Regulations in respect of that PPE or PPE of the same type placed on the market by that person.

### **Offences**

17. Any person who contravenes or fails to comply with regulation 8 or 9 shall be guilty of an offence.

### **Penalties**

18. A person guilty of an offence under regulation 17 shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 3 months; or
- (b) a fine not exceeding level 5 on the standard scale,

or both.

### **Defence of due diligence**

19.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 17 it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the persons who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took and those which might reasonably have been taken, for the purposes of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.



### **Liability of persons other than the principal offender**

**20.**—(1) Where the commission by any person of an offence under regulation 17 is due to an act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and will be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

*Sainsbury of Turville,*  
Parliamentary Under-Secretary of State for  
Science and Innovation,  
Department of Trade and Industry

20th April 2002